

75-5-206 Court appointment of guardian of minor -- Qualifications -- Priority of minor's nominee.

- (1)
 - (a) The court may appoint as guardian any person whose appointment would be in the best interests of the minor.
 - (b) In determining the minor's best interests, the court may consider the minor's physical, mental, moral, and emotional health needs.
- (2) Except as provided in Subsection (3), the court shall appoint a person nominated by the minor, if the minor is 14 years of age or older, unless the court finds the appointment contrary to the best interests of the minor.
- (3) The court may deny the appointment of a guardian for a minor of school age if it finds that:
 - (a) if the minor is older than 11 years of age:
 - (i) the minor has not secured a certificate from the local police authority in the jurisdiction where the minor has lived during the past two years stating that there have been no criminal charges filed against the minor and the minor is not the subject of a criminal investigation in that jurisdiction and given a copy of the certificate to the superintendent of the school district in which the minor would attend school in Utah; or
 - (ii) a release has not been given by or on behalf of the minor to the superintendent of the school district in which the minor would attend school in Utah within a reasonable time prior to the guardianship hearing, allowing the superintendent full access to all criminal records of the minor in those jurisdictions outside the state where the minor has resided during the previous two years, which release remains part of the minor's school records together with verification of residence for the previous two years, except that information disclosed in the criminal records may not be made a part of the minor's school record;
 - (b) the school district has proven by a preponderance of the evidence that the primary purpose for the guardianship is to avoid the payment of tuition, which a school district may assess against a nonresident for attendance at a Utah public school; or
 - (c) after consideration of relevant evidence, including any presented by the school district in which the petitioner resides, the minor's behavior indicates an ongoing unwillingness to abide by applicable law or school rules.
- (4) If a school district files an objection for reasons described in Subsection (3)(b), and the court does not find in favor of the school district, the court may award the petitioner attorney fees and costs if the court finds that the school district's arguments lack a reasonable basis in law or fact.

Amended by Chapter 392, 2010 General Session